

DATED

23<sup>rd</sup> June

2017

**Persimmon Homes Limited  
and  
East Devon District Council**

**Deed of Variation under s106 Town and Country planning Act 1990 (as amended)  
relating to land north of Rockbeare Devon (Cranbrook)**

This Deed is made the

23<sup>rd</sup>

day of

June

2017

Between:

- (1) **PERSIMMON HOMES LIMITED** whose registered office is at Persimmon House Fulford York YO1 4RE ("Persimmon")
- and
- (2) **EAST DEVON DISTRICT COUNCIL** of Knowle Sidmouth Devon EX10 8HL ("EDDC")

## Background

- (A) This Deed is a deed of variation varying a deed dated 8<sup>th</sup> December 2016 and made by Taylor Wimpey Development Limited (Taylor Wimpey) (1) Hallam Land Management Limited (Hallam) (2) and Persimmon (3) to EDDC (the "Original Deed")
- (B) EDDC is a Local Planning Authority for the purposes of the Act for the area within which the Land is situated
- (C) Since the granting of the Reserved Matters Approval Persimmon have acquired the Land from the other NCP and submitted further details for the drainage of the Land in advance of the agreement of the Revised Drainage Arrangements
- (D) The Parties have agreed that the provisions of the Original Deed shall be varied as set out herein

## 1 OPERATIVE PROVISIONS

- 1.1 In pursuance of sections 106 of the Act section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and all other enabling provisions powers it is **HEREBY AGREED AND DECLARED** by Persimmon as follows:
- 1.2 This Deed shall become effective upon the date hereof
- 1.3 This Deed is entered into under Section 106 of the Act and creates or varies the planning obligations within the Original Deed for the purposes of the Act and is enforceable by EDDC as local planning authority
- 1.4 Nothing in this Deed shall prevent Persimmon and or the NCP from carrying out development of the Land subject to a planning permission (whether a full permission or revised reserved matters permission) granted after the date of the Reserved Matters Approval

## 2 INTERPRETATION

- 2.1 The following definition shall be added to the Original Deed :

**“Second Drainage Plan** means the plan attached to this Deed being drawing number 2505 Revision P01 dated May 17 and marked as “the Second Drainage Plan” and which shows the interim drainage scheme coloured red”

2.2 The definition of Reserved Matters Application and Revised Drainage Arrangements in the Original Deed shall be replaced with;

<p><b>Reserved Matters Application</b></p>	<p>means the application given reference 17/0397/MRES and submitted to EDDC for the approval of reserved matters under the Outline Permission relating to the Land for ‘approval of access, appearance, landscaping, layout and scale, for re-plan of Phase 4 of the Cranbrook development; comprising 131 dwellings, highway infrastructure, including highway access from London Road/B3174 and associated landscaping works</p>
<p><b>Revised Drainage Arrangements</b></p>	<p>means revised drainage arrangements to amend those parts of the LBDS that relate specifically to the drainage of surface water from the Land in accordance with the terms of the Principal Agreement or such other scheme as may be proposed to accommodate the surface water drainage from 103 Dwellings</p>

2.3 The interpretation and expressions defined in the Original Deed and/or Principal Agreement shall unless the context otherwise requires have the same meaning when used in this Deed

2.4 The Definitions and clauses of the Original Deed and the Principal Agreement shall be incorporated into this Deed as if the same was set out herein in full and where there is any conflict between a clause of this Deed and the clauses of the Original Deed or Principal Agreement precedence shall be given first to the clause in the Principal Deed and secondly to the clause in the Original Deed

2.5 References to clauses paragraphs schedules and appendices are references to the Principal Deed unless the contrary intention is shown

**3 ENFORCEMENT**

3.1 No third party other than successors in title to Persimmon and any person or body succeeding to any of the statutory functions of EDDC shall have any right to enforce the terms of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise a right of veto over any future or further variation to the Principal Agreement

- 3.2 No person shall be liable for any breach of an obligation in this Deed occurring after that person has parted with all of its interest in the Land (but without prejudice to liability for any subsisting breach arising prior to parting with such interest)
- 3.3 The obligations in this Deed shall not be binding on nor enforceable against any statutory undertaker or other person who acquires any part of the Land or any interest in it for the purposes of the supply of electricity gas water drainage telecommunication services nor the residential owner or occupier of an individual Dwelling or their mortgagee or charge

#### **4 OPERATIVE PROVISIONS**

The provisions of clause 4 of the Original Deed shall be deleted and replaced in their entirety with a new Clause 4 as follows:

#### **"4 OPERATIVE PROVISIONS**

- 4.1 Immediately following the date of this Deed of Variation Persimmon shall submit a plan for the written approval of EDDC showing the location of 28 Dwellings and their related infrastructure which are to be constructed pursuant to the Outline Permission and Reserved Matters Approval and no further development shall occur until such plan is approved
- 4.2 Following the date of this Deed of variation Persimmon shall ensure that surface water arising from the 28 Dwellings referred to in 4.1 shall be drained to the basin shown as 'Proposed surface water detention/attenuation feature 2:C' on the Drainage Plan in accordance with the LBDS.
- 4.3 Any of the remaining 103 Dwellings to be constructed pursuant to the Reserved Matters Approval shall be drained to the interim drainage scheme in accordance with the Second Drainage Plan.
- 4.4 Subject to clause 4.5 below Persimmon shall only implement and construct the surface water drainage scheme in accordance with clauses 4.2 and 4.3 above.
- 4.5 Notwithstanding clauses 4.3 and 4.4 above prior to the commencement of construction of the 121<sup>st</sup> Dwelling pursuant to the Reserved Matters Approval Persimmon shall have submitted and had approved in writing by EDDC the Revised Drainage Arrangements such that the same are capable of being constructed and following approval of the Revised Drainage Arrangements Persimmon shall carry out and construct the agreed Revised Drainage Arrangements to ensure that the surface water from the 103 Dwellings drains to the Revised Drainage Arrangements. Persimmon shall not permit the construction of the 121<sup>st</sup> Dwelling to be commenced until the Revised Drainage Arrangements have been approved and shall not permit First Occupation of the 121<sup>st</sup> Dwelling until the Revised Drainage Arrangements have been constructed.
- 4.6 Persimmon shall ensure that at the completion of the Development the remaining 103 Dwellings are connected to the Revised Drainage Arrangements.

4.7 Having constructed the interim drainage scheme pursuant to clause 4.3 Persimmon shall hereafter maintain the drainage scheme until such time as the Revised Drainage Arrangements have been constructed and the 103 Dwellings connected to it.

4.8 In respect of any part of the drainage system constructed pursuant to clauses 4.2 and / or 4.5 that is not adopted by a water undertaker it shall thereafter be permanently maintained by Persimmon in accordance with the approved detail."

**5 CONTINUITY OF THE ORIGINAL DEED**

Other than as set out herein the Original deed shall continue in full force and effect.

**6 FEES**

Upon completion of this Deed Persimmon shall pay to EDCC its legal costs in preparing amending and completing this Deed

**7 COUNTERPARTS**

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original but all the counterparts shall together constitute the one Deed

**EXECUTED AS A DEED** the parties hereto intend this agreement to take effect as a Deed

**IN WITNESS** whereof this Deed was executed and delivered as a deed on the day and year first above written

**EXECUTED as a DEED by** )  
**PERSIMMON HOMES LIMITED** )  
acting by its Attorneys:

*Ashan N. Morgan* *ADRIAN N. MORCAN*  
.....  
[Name of First Attorney]

*Stephen Taylor*  
.....  
[Name of Second Attorney]

in the presence of: *Ash Morgan*  
Witness signature

Name: ZAK MORGAN

Address: Mallard Road, Sowton, Exeter, EX2 7LD

Occupation: Junior Engineer

The Common Seal of )

**EAST DEVON DISTRICT COUNCIL** )

Was hereunto affixed in the presence of )

*WJ*



19579

NOTES:

DO NOT SCALE from this drawing as liable to distort  
Copyright of this drawing is retained by the Engineer and it must not be reproduced in whole or part without written consent  
This drawing is to be read in conjunction with all other relevant Engineering, Architect and Specialist drawings and specifications  
Any variations with line, level or specification of the proposed works should be reported to the Engineer prior to commencement!

P01 19.05.17 Initial preliminary issue  
Rev Date Description  
DJR CHA  
Drawing revision denotes the following stages: P - Preliminary, I - Tender, CP - Contracted Proposal, C - Construction, S - Structural Works  
**PRELIMINARY**

Civil & Structural  
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Herrn Court, Longbrook Street  
Exeter, Devon, EX4 6AF  
T: 01392 421400 F: 01392 422891  
sands@sand-consultants.co.uk  
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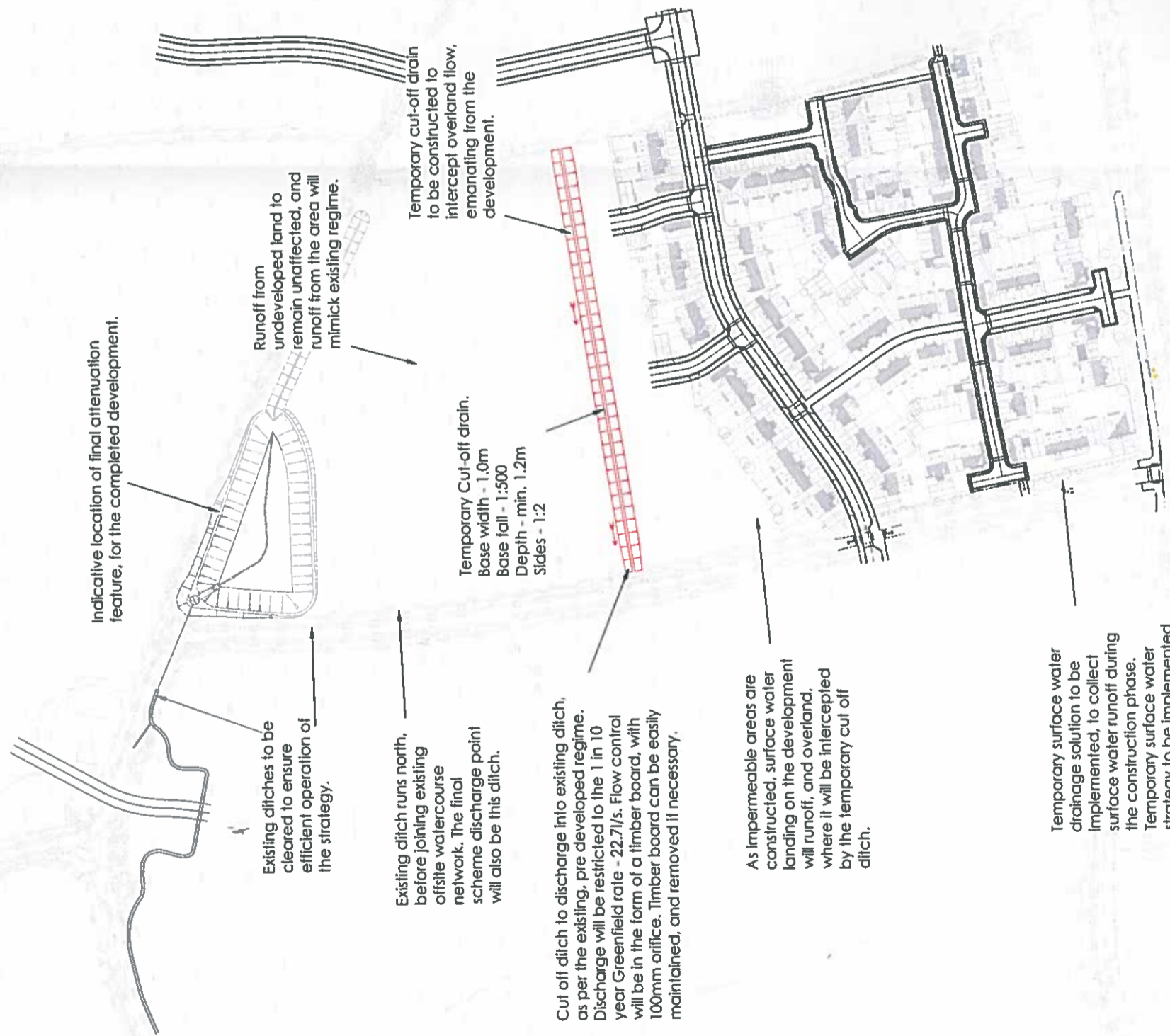


Client  
Project Title  
PROPOSED DEVELOPMENT AT  
CRANBROOK  
EXETER  
DEVON

Drawing Title  
CONSTRUCTION PHASE  
SURFACE WATER STRATEGY

Scale/Size  
1:1000(A1)  
Date  
May 17  
Drawn  
Max Ganaghan  
Checked  
David Rowe  
Client Project No.  
16.01.003

Revision  
Drawing No.  
2505  
P01



Indicative location of final attenuation feature, for the completed development.

Runoff from undeveloped land to remain unaffected, and runoff from the area will mimic existing regime.

Temporary cut-off drain to be constructed to intercept overland flow, emanating from the development.

Temporary Cut-off drain.  
Base width - 1.0m  
Base fall - 1:500  
Depth - min. 1.2m  
Sides - 1:2

Existing ditches to be cleared to ensure efficient operation of the strategy.

Existing ditch runs north, before joining existing offsite watercourse network. The final scheme discharge point will also be this ditch.

Cut off ditch to discharge into existing ditch, as per the existing, pre developed regime. Discharge will be restricted to the 1 in 10 year Greenfield rate - 22.7l/s. Flow control will be in the form of a timber board, with 100mm orifice. Timber board can be easily maintained, and removed if necessary.

As impermeable areas are constructed, surface water landing on the development will runoff, and overland, where it will be intercepted by the temporary cut off ditch.

Temporary surface water drainage solution to be implemented, to collect surface water runoff during the construction phase. Temporary surface water strategy to be implemented until final scheme has been constructed, and become operational.

Handwritten signatures and initials

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